

## Oregon Workers' Compensation Division's Modernization Program

### Project to Streamline Communications to Injured Workers and Employers July 5, 2023, Project Update

#### History and Review:

This project's purpose is to review notice language to workers as required in Oregon Administrative Rules (OAR) chapter 436 and identify opportunities to simplify and streamline the wording and format of this language.

As reported in our December 2022 update, the project team determined to focus on notices in which mandatory language is required by rule, as this language cannot be adapted by external stakeholders. To determine readability, the team used the [Hemingway Editor tool](#), which adjusts readability scores as edits are made. Additionally, the team created a weighted matrix to determine the impact and feasibility of changes to prioritize which notices to address in the first phase of the project. The matrix utilizes seven criteria such as whether the mandatory language identifies actions the worker must take to preserve or access benefits (impact) or if there were previous requests to revise the mandatory language (feasibility).

#### Update:

The project team has made significant progress since the last update.

Rule Divisions in Scope  
(OAR 436):



What?	How many?	Completed?
Notices with mandatory language	30	30
Notices with mandatory language revised	30	30
Revised notices with mandatory language reviewed by policy analysts	30	30
Revised notices with mandatory language reviewed by subject matter experts	30	In progress
Final draft revisions of notices with mandatory language	30	In progress
Final draft revisions prepared for future rulemaking	30	In progress

Average grade level readability score:

- 11.43 (current rule language)
- 6.13 (latest draft revision of rule language)

Average grade-level readability reduction:

- 5.30 (5+ grade levels!)

**Risks and Challenges:**

The greatest challenge has been gathering feedback from workers on the proposed revised language. The team drafted some example appointment letters that are intended to demonstrate how readability, plain language, and format can be used to simplify these required communications. WCD’s Preferred Worker Team has been gathering feedback regarding the letters at their outreach events. If you have recommendations or suggestions to solicit additional worker feedback, please contact me at the phone number or email below. Worker input is an important component to this project. All the feedback the project has received up to now has been positive, but limited in quantity. The project team would appreciate additional worker feedback to confirm that changes are effective.

The team has produced a side-by-side comparison of the original and revised mandatory language paragraphs to easily demonstrate the improvements in readability.

**Next Steps:**

Once program area subject matter experts have completed their review, the team will work with the division’s policy analysts to provide final draft language revisions. The revisions will be prepared for rulemaking and addressed when the appropriate rule division is opened. Draft revisions will follow the normal rulemaking process, and interested parties will be able to provide additional input at that time.

The project team identified 18 required notices that do not include mandatory language. These notices only require a few specific data elements. Insurers, self-insured employers, and service companies have significant discretion to simplify and streamline their letters because the notices do not have mandatory language.

The Modernization Program and project team will continue to provide quarterly progress updates. Please reach out to me directly with questions and to provide feedback about current progress and direction.

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Streamline Comms -  
Rules.xlsb

OAR division	Potential next rule opening timeframe	OAR	Mandatory letter
9	June/July start HB 2696 and HB 3412 implementation	<a href="#">436-009-0025(1)(d) &amp; (e)</a>	Written explanation to the worker for each type of out-of-pocket expense being paid or denied
10	June/July start HB 2696 and HB 3412 implementation	<a href="#">436-010-290(2)(c) and (d)</a>	Notice that palliative care is approved or disapproved
15	June/July start HB 3412	<a href="#">436-015-0110(4)</a>	Notice of right to appeal to the MCO
15	June/July start HB 3412	<a href="#">436-015-0110(5)</a>	Notice of right to appeal to the director when the issue raised is not a matter the MCO handles
15	June/July start HB 3412	<a href="#">436-015-0110(6)</a>	Notice of right to appeal to the director if a party disagrees with the MCO's decision about a disputed issue
30	**To be determined	<a href="#">436-030-0015(1)(c)(A)</a>	Updated Notice of Acceptance at Closure
30	**To be determined	<a href="#">436-030-0015(1)(c)(B)</a>	Updated Notice of Acceptance at Closure - beneficiary
30	**To be determined	<a href="#">436-030-0017(2)</a>	Notice of refusal to close claim
60	**To be determined	<a href="#">436-060-0018(3)</a>	Notice of refusal to reclassify the claim to disabling
60	**To be determined	<a href="#">436-060-0018(6)</a>	Reclassification of a disabling claim
60	**To be determined	<a href="#">436-060-0020(5)(b)</a>	Notice of rescheduled medical appointment and that temporary benefits will be suspended if the worker does not attend
60	**To be determined	<a href="#">436-060-0020(5)(d)</a>	Notice that temporary disability payment have been suspended because the worker failed to attend a rescheduled appointment
60	**To be determined	<a href="#">436-060-0030(3)</a>	Notice about refusal of work offer
60	**To be determined	<a href="#">436-060-0095(3)</a>	Notice to worker of scheduled independent medical exam
60	**To be determined	<a href="#">436-060-0095(6)</a>	Request to authorize suspension under ORS 656.325 and OAR 436-060-0095, 436-060-0095(6)
60	**To be determined	<a href="#">436-060-0105(2)</a>	Notice to cease insanitary or injurious acts
60	**To be determined	<a href="#">436-060-0105(4)</a>	Request for suspension of benefits due to continuing insanitary or injurious acts
60	**To be determined	<a href="#">436-060-0105(5)</a>	Request to reduce benefits awarded under ORS 656-268 for unreasonably failing to follow medical advice or failing to participate in a physical rehabilitation or vocational assistance program
60	**To be determined	<a href="#">436-060-0135(2)(a)</a>	Request to suspend compensation for refusal or failure to cooperate in an investigation
60	**To be determined	<a href="#">436-060-0137(3)</a>	Notice of required vocational evaluation
60	**To be determined	<a href="#">436-060-0137(5)</a>	Request to suspend compensation when the worker refuses or fails to attend or obstructs a required vocational evaluation
105	**To be determined	<a href="#">436-105-0500(3)(a)</a>	Required notice language for EAIP - to worker
105	**To be determined	<a href="#">436-105-0500(3)(b)</a>	Required notice language for EAIP - to employer
110	**To be determined	<a href="#">436-110-0240(3)(a)</a>	Required notice language for PWP - to worker
110	**To be determined	<a href="#">436-110-0240(3)(b)</a>	Required notice language for PWP - to employer
120	After Session	<a href="#">436-120-0012(2)</a>	Appeal rights applicable to most vocational notices
120	After Session	<a href="#">436-120-0115(8)</a>	Notice of extension of time for completing eligibility evaluation
120	After Session	<a href="#">436-120-0115(9)(a)(B)</a>	Notice of eligibility or ineligibility for vocational assistance; request for RTW plan conference
120	After Session	<a href="#">436-120-0115(9)(a)(C)</a>	Notice of eligibility or ineligibility for vocational assistance; selection of counselor
120	After Session	<a href="#">436-120-0117(2)</a>	Notice of deferral of vocational assistance eligibility evaluation

The letters below are required to be sent to workers and include specific data elements, but they require no mandatory language or special formatting. Thus, claims processors already have significant discretion to simplify and improve the readability of them.

30	**To be determined	436-030-0034(1)	Notice to non-medically stationary worker who fails to seek medical treatment for more than 30 day
30	**To be determined	436-030-0034(3)	Notice that the worker must attend a mandatory closing exam
60	**To be determined	436-060-0140(4-7)	Notice to worker of claim acceptance
60	**To be determined	436-060-0140(8-9)	Notice to worker of claim denial
60	**To be determined	436-060-0015(4)	Notice of change of processing locations
60	**To be determined	436-060-0015(5)	Notice of change in rate of compensation and benefit amounts
60	**To be determined	436-060-0015(6)	Notice of wage used to calculate benefits at closure
60	**To be determined	436-060-0035(4)(b)(A)	Request for verifiable documentation of the worker's wage from any secondary jobs
60	**To be determined	436-060-0035(5)	Notice of eligibility/ineligibility for supplemental disability
60	**To be determined	436-060-0035(8)	Notice that supplemental disability payments have stopped
60	**To be determined	436-060-0075(5)(c)	Notice to dependent that the information in the insurer's possession is not sufficient to determine the dependent's monthly benefit
120	After Session	436-120-0165(2)	Notice of end of eligibility for vocational assistance
120	After Session	436-120-0185(1)	Notice of selection of a vocational counselor
120	After Session	436-120-0185(2)	Notice of change of a vocational counselor
120	After Session	436-120-0500(4)(b)	Notice of disapproval of training plan
120	After Session	436-120-0527	Notice of end of training
120	After Session	436-120-0700	Notice of denial of direct worker purchase
120	After Session	436-120-0700(6)(b)	Notice of denial of reimbursement of worker's costs to participate in vocational assistance

\*\*The division regularly evaluates the need for rulemaking. Decisions to open rules are communicated to stakeholders as early as possible in order to provide opportunities for input.